REMARKS

Reconsideration of the present application is respectfully requested.

Summary of Office Action

Claims 10, 14 and 31-36 stand rejected under 35 U.S.C. § 103(a) based on U.S. Patent no. 7,096,315 of Takeda et al. ("Takeda"), in view of U.S. Patent Application publication no. 7,139,811 of Butt et al. ("Butt") and U.S. Patent no. 7,139,811 of Lev Ran et al. ("Lev Ran").

Summary of Amendments

In this amendment, claims 10 and 34 have been amended. No claims have been canceled or added. No new matter has been added.

Discussion of Rejections

Applicants respectfully traverse the rejections. The amendments to the claims are made only to place the claims in a form which Applicants believe better protects the invention. The amendments are not made in response to the rejections or to comply with any statutory requirement of patentability, since no such amendments are believed to be necessary.

Applicants respectfully traverse the rejections. First, the cited combination of references does not disclose *all of the limitations* of Applicants' claimed invention. Second, at least one reference (Butt) clearly *teaches away* from the present invention. Third, the Office is impermissibly using Applicants' invention as a 'blueprint' to locate and combine prior art, and is combining the references in such a way that a person of

ordinary skill in the art would have *no reasonable expectation of success* at achieving

the claimed invention.

Claim 10, as amended, recites:

10. (Currently amended) An apparatus comprising:
a storage server, coupled to a network, having a mass storage device;
a multi-appliance management application (MMA) coupled to the network to manage the storage server; and
an agent coupled to the storage server and the MMA via the network, the agent **to scan a file and directory structure of the storage server** to collect **information about a file stored on the storage server**, and to combine information collected into **a summary of a directory in which the file is located**, the summary being accessible to the MMA, wherein the agent, the MMA, and the storage server are separate devices, and wherein the agent uses a file system different from any file system that the storage server uses. (Emphasis added.)

Clam 34 includes similar limitations to those emphasized above.

The cited references do not disclose or suggest such an apparatus or a

corresponding method, either individually or in combination. The Office admits that

Takeda fails to disclose an agent coupled to the storage server and the MMA via a

network, wherein the agent, MMA and the storage server are separate devices, and

wherein the agent uses a file system different from any file system that the storage

server uses. However, the Office contends that Butt discloses an agent coupled to the

storage server and the MMA via a network, wherein the agent, MMA and the storage

server are separate devices, and that Lev Ran discloses an agent which uses a file

system different from any file system that the storage server uses (Office Action, p. 4).

I. <u>The cited combination fails to disclose all of the limitations of Applicants' claimed</u> <u>invention.</u>

While Applicants arguments are directed to the cited combination of references, it is necessary to consider their individual disclosures, in order to ascertain what combination, if any, could be made from them.

Takeda discloses a method of displaying performance information relating to use of a storage device on a storage area network (SAN). The technique includes reading out information that was previously stored on a storage device, and information of devices using the storage device, and displaying on a screen performance information relating to a selected device.

Takeda fails to disclose, however, combining collected information into *a summary of a directory in which the file is located*, per Applicants' claims. In fact, Takeda does not even disclose collecting *information about a file stored on the storage server* in the first place, nor doing so *by scanning a file and directory structure of the storage server*, per Applicants' claims.

The information collected in Takeda is *performance information*. Examples of that performance information are shown in Takeda's Figures 5-8. It is clear from those figures and the related text that the performance information in Takeda does *not* include information *about a file stored on* a storage server, much less that such information is obtained by scanning a file and directory structure of the storage server. Further, there is no hint in Takeda of providing any *summary of a directory in which the file is located.*

The other cited references also do not disclose any of the aforementioned limitations. The cited combination of references, therefore, could not possibly produce

Applicants' claimed invention. For at least these reasons, therefore, the obviousness rejection is improper and should be withdrawn.

As to Lev Ran, the Office contends that this reference discloses that "the agent uses a file system different from any file system that the storage server uses", per Applicants' claims (Office Action, p. 4)(citing Lev Ran at col. 19, lines 52-67; col., 21, lines 6-20). That conclusion is incorrect. Lev Ran merely discloses that multiple *file servers* communicating over one or more networks may use different file systems, *not* that *an agent which can scan a storage server's (e.g., file server's) file and directory structure* uses a file system different from that of the storage server. Even if the Office relies on Butt to show the "agent", Butt still does not disclose this functionality, nor does Takeda.

The other cited references also do not disclose this limitation. For this additional reason, therefore, the obviousness rejection is improper and should be withdrawn.

II. Butt *teaches away* from the present invention.

Applicants independent claims recite that the agent, the MMA, and the storage server are *separate devices*. The Office cites Butt as disclosing this feature. However, in Butt the "agent" is explicitly defined as a "remote *network management application*" (Butt, para. [0016])(emphasis added). Therefore, assuming the "agent" in Butt can be read on any element in Applicants' claims, it would be the *MMA* (multi-appliance *management application*). In other words, Butt teaches that the agent and the MMA are the *same device*, thus *teaching away* from the present invention. For at least this

additional reason, therefore, the obviousness rejection is improper and should be withdrawn.

III. <u>No reasonable expectation of success / Impermissible use of Applicants' invention as a 'blueprint'.</u>

"[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." *In re Fritch*, 972 F.2d 1260, 1266 (Fed, Cir. 1992). "The invention must be viewed *not* with the blueprint drawn by the inventor, but in the state of the art that existed at the time." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138 (Fed. Cir. 1985)(emphasis added).

The Office is impermissibly using Applicants' invention as a 'blueprint' to locate and combine references; and, when one considers the references' teachings, it is apparent that the Office is combining the references in a way that a person of ordinary skill in the art would have *no reasonable expectation of success* at achieving the claimed invention.

The Office admits that Takeda fails to disclose an agent coupled to the storage server and the MMA via a network, wherein the agent, MMA and the storage server are separate devices. However, the Office contends that Butt discloses that the agent, the MMA and the storage server are separate devices.

However, the agent in Butt is not disclosed as having any ability to perform the same or similar functionality as the agent in Applicants' claims or any agent in Takeda, such as the ability to scan a file and directory structure of a storage server. Butt

discloses that an "agent" is a remote network management application, but provides few additional details about what capabilities an agent has. It is neither inherent nor given that a remote network management application has the ability to scan a file and directory structure of a storage server. As such, the teachings of Butt add little, if anything, to the teachings of Takeda, that is relevant to the present invention.

As to Lev Ran, the Office contends that this reference provides the teaching of an agent which uses a file system different from any file system that the storage server uses (Office Action, p. 4). As mentioned above, however, all Lev Ran discloses in this regard is that multiple *file servers* communicating with each other can use different file systems. That disclosure provides no basis to envision, either by itself or in combination with Takeda/Butts, *an agent which can scan a storage server's (e.g., file server's) file and directory structure* uses a file system different from that of the storage server.

When viewed objectively, in view of the substantial differences between what is claimed and the cited references (even when they are considered in combination), it is clear that a person of ordinary skill in the art would have *no reasonable expectation of success* at achieving the claimed invention. That is, the claimed invention *as a whole* would not be obvious in vies of the cited art, as required by 35 U.S.C. § 103. The Office is impermissibly using Applicants' invention as a 'blueprint' for the rejection. Therefore, Applicants respectfully submit that the rejection is in error and should be withdrawn.

Applicants have not necessarily discussed here every reason why every pending independent claim is patentable over the cited art; nonetheless, Applicants are not waiving any argument regarding any such reason or reasons. Applicants reserve the right to raise any such additional argument(s) during the future prosecution of this application, if Applicants deem it necessary or appropriate to do so.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If there are any additional charges, please charge Deposit Account No. 50-2207.

Respectfully submitted,
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